

**Minneapolis Planning Department**

350 South Fifth Street, Room 210

Minneapolis, MN 55415-1385

(612) 673-2597 Phone

(612) 673-2728 Fax

(612) 673-2157 TDD

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**MEMORANDUM**

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DATE: September 17, 2002

TO: Council Member Gary Schiff, Chair, Zoning & Planning Committee and  
Members of the Committee

FROM: Hilary Watson, City Planner HW

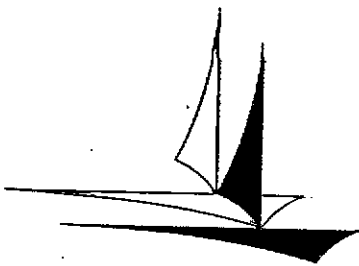
SUBJECT: Appeal of the decision of the Zoning Board of Adjustment by Mo and  
Kathie Fraenkel

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Mo and Kathie Fraenkel have filed an appeal of the decision of the Zoning Board of Adjustment. The appeal is associated with the decision of the Zoning Board of Adjustment to deny the requested variance to increase the maximum permitted floor area of an accessory structure from 676 square feet to 1,143 square feet. The actions from the August 28, 2002 Zoning Board of Adjustment meeting are attached.

The appellants are appealing the decision of the Zoning Board of Adjustment to deny the requested variance to increase the maximum permitted floor area of an accessory structure from 676 square feet to 1,143 square feet. The applicants have indicated that this action is being appealed because they have no alley to pull in from and therefore cannot have a driveway on the north side of the house due to a 10-foot Sprint easement.

At the August 28, 2002 Zoning Board of Adjustment meeting, six Board members were present. All six of the Board members voted to deny the garage size variance.



City of Minneapolis  
Inspections Division of Regulatory Services  
Office of Zoning Administration  
250 South 4<sup>th</sup> St. Room 300  
Minneapolis MN 55415-1316  
612-673-5836  
Fax 612-673-3173

**Notice of exception**  
**To the Decision of the Board of Adjustment**

A complete application<sup>1</sup> shall be filed in the zoning office by 4:30 p.m. within ten (10) calendar days of the date of decision by the board of adjustment.

**MAILING/OFFICE ADDRESS:**

Zoning Administrator  
Office of Zoning Administration  
Public Service Center  
250 S. 4<sup>th</sup> St. Room 300  
Minneapolis MN 55415-1316  
Office: 612-673-5867  
Fax: 612-673-3173

Date: 8-28-02  
RE: 3612 NE Fillmore St.  
(address)  
File No. BZZ-692

I, Kathie + Mo Fraenkel do hereby file an exception to the Decision of the Board of Adjustment as provided for in Chapter 525.180;

**525.180. Appeals of decisions of the city planning commission or board of adjustment.** All decisions of the city planning commission, except zoning amendments, and all decisions of the board of adjustment shall be final subject to appeal to the city council and the right of subsequent judicial review. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of decision by the city planning commission or board of adjustment. No action shall be taken by any person to develop, grade or otherwise alter the property until expiration of the ten-day appeal period and, if an appeal is filed pursuant to this section, until after a final decision has been made by the city council. Not less than ten (10) days before the public hearing to be held by the zoning and planning committee of the city council to consider the appeal, the zoning administrator shall mail notice of the hearing to the property owners and the registered neighborhood group(s) who were sent notice of the public hearing held by the city planning commission or the board of adjustment. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings provided a bona fide attempt to comply with this section has been made.  
(2000-Or-034, § 2, 5-19-2000)

Further, I do hereby request that I be given an opportunity to express by case before the proper committee of the Honorable City Council.  
The action being appealed and the reasons for appealing the decision are attached and made a part of this notice of exception.

Kathie Fraenkel  
Mo Fraenkel

Sincerely,

(Name) Kathie + Mo Fraenkel  
(Address) 3612 NE Fillmore St  
(Telephone) 612 781-7172

<sup>1</sup> Complete Application – includes a completed application form and attached statement explaining the basis for appeal, correct fee and mailing labels  
BZZ-

## CHECKLIST

1. ✓ Appeal Form (signed)
2.        Written statement of reason for appeal
3. N/A Fee of \$150.00 **(Waived if original applicant filing)**  
(Payable to the Minneapolis Finance Department)
4.        List of property owners can be **retyped on Avery 5160**  
**Address labels** by the person appealing (list can be  
faxed or copied) **or** labels reordered from:

Hennepin County Taxpayer Services Division  
A-603 Gov't Center  
4<sup>th</sup> Avenue South & 6<sup>th</sup> Street South  
Telephone: 612-348-5910

Our hardship for a front facing garage  
if that we have no alley to pull in from  
and can not put a drive on the north  
side of our home - due to a 10' wide Sprinkler  
assment.

More to follow, when we drop off our  
: address labels

**BOARD OF ADJUSTMENT MEETING MINUTES  
CITY OF MINNEAPOLIS  
ROOM 220 CITY HALL  
August 28, 2002**

**Minneapolis Board of Adjustment:**

Ms. Debra Bloom  
Mr. David Fields  
Mr. John Finlayson  
Mr. Paul Gates  
Ms. Marissa Lasky  
Mr. Barry Morgan  
Mr. Peter Rand  
Ms. Gail Von Bargen  
Mr. Richard White

The Board of Adjustment of the City of Minneapolis met at **2:00 p.m.**, on **Wednesday, August 28, 2002**, in **Room 220 City Hall**, Minneapolis, Minnesota, to consider requests for the following:

**2:00 p.m.**

**1. 3612 Fillmore St. NE (BZZ-692, 1<sup>st</sup> Ward)**

Mo and Kathie Fraenkel have applied for a variance to increase the maximum permitted floor area of an accessory structure from 676 sq. ft. to 1,143 square feet.

**Planning Department Recommendation by Ms. Watson:**

Staff recommends that the Board of Adjustment **deny** the variance application.

**Motion:** Debra Bloom motioned to **deny** the variance application and Gail Von Bargen seconded the motion.

**Action:**

The Board of Adjustment adopted the findings and **denied** the variance application.

**Vote to deny**

Yea: Bloom, Finlayson, Lasky, Morgan, Rand, Von Bargen

Nay: None

Abstain: None

Absent: Fields, Gates, White

**Applicant Statement**

Mo and Kathy Fraenkel spoke in support of the variance and stated since the last discussion they have resolved with the Board of Adjustment recommendations and have reduced the project down to a 4 car garage. Mr. Fraenkel states a new plan has been submitted and they have cut back on the variance request and redesigned the garage to be front facing instead of towards the Rail Road track. Mr. Fraenkel states because of the new cut back they have designed a wider width to compensate for the area lost for turning space due to the redesign the project to be facing the front. The new plan shows a 2 car to match the existing 2 car garage, and an inventory of similar garages in the

neighborhood is provided to you today. Mr. Fraenkel further states they have met with Council Member Paul Ostrow and Mr. Ostrow came out to our site and looked over the project and is in full support and provided to you is a letter from Mr. Ostrow. Wait Park did come the last hearing to speak in support and they are still in full support as well as our neighbors. The square footage is less but it is at what we see as a minimum. I see the 676 limitation is not a realistic statute in place and because of that requirement is what we have to abide by on our own lot and I see the purpose of this committee is to look at objectively at rare situations and over sized lots such as ours is and go beyond that, we have expressed continuously our vehicles are hit and our family does not fit into what the code allows and we need this variance to allow us to park on our own lot. We have taken the suggestion and downsized from our last proposal.

**Board of Adjustment Member Peter Rand**

I do not have a problem with the 1,143 square feet request and I see the hardship to approve would be the lot is a large lot.

**Board of Adjustment Member Debra Bloom**

I appreciate the fact that this lot is unusual due to being located next to the Rail Road but I do not see a hardship causing the applicants to not be able to use their property and approve the variance request.

## **Minneapolis City Planning Department Report**

Variance Request  
BZZ-692

**Date:** August 28, 2002

**Applicant:** Mo and Kathie Fraenkel

**Address of Property:** 3612 Fillmore Street Northeast

**Date Application Deemed Complete:** July 2, 2002

**End of 60 Day Decision Period:** August 31, 2002

**Contact Person and Phone:** Mo and Kathy Fraenkel, (612) 781-7172

**Planning Staff and Phone:** Hilary Watson, (612) 673-2639

**Ward: 1      Neighborhood Organization:** Waite Park Community Council

**Existing Zoning:** R1

**Proposed Use:** New attached garage and house addition

**Proposed Variance:** A variance to increase the maximum permitted floor area of an accessory structure from 676 square feet to 1,143 square feet

**Zoning code section authorizing the requested variance:** 525.520 (3)

**Concurrent Review:** None

**Background:** At the July 24, 2002 Board of Adjustment meeting, the applicants were seeking approvals for three variances; a variance to increase the maximum permitted floor area of an accessory structure from 676 square feet to 1,360 square feet; a variance to reduce the front yard setback along Fillmore Street Northeast from the required 25 feet to 18 feet to allow an addition; and a variance to increase the height of a fence in the front yard from the permitted 3 feet to 6 feet. At the July 24, 2002 Board of Adjustment meeting, the Board of Adjustment approved the fence height variance, denied the setback variance and continued the accessory size variance.

At the July 24, 2002 Board of Adjustment meeting, the applicants were told that they would not be approved for a variance for a garage that was as large as they were proposing. Currently, the applicant is seeking a variance to increase the maximum permitted floor area of an accessory structure from 676 square feet to 1,143 square feet.

**Minneapolis City Planning Department Report**  
**BZZ-692**

This is 217 square feet less than the original floor area variance request. The addition includes an additional two-car garage and living space for their parents on the second floor. The addition exceeds the maximum allowed square footage for accessory structures.

**Findings Required by the Minneapolis Zoning Code:**

1. **The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

**Maximum square footage of an accessory structure:** The applicants are seeking a variance to increase the maximum permitted floor area of an accessory structure from 676 square feet to 1,143 square feet. No unique factors appear to exist on the parcel of land that would cause difficulty if the applicants were to comply with the 676 square foot limitation for accessory structures. The applicants have indicated that all of the people who live in the house are adults who each have their own vehicle.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

**Maximum square footage of an accessory structure:** The condition upon which the floor area variance for accessory structures is requested is not unique to the parcel of land.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

**Maximum square footage of an accessory structure:** Staff believes that the granting of this variance would alter the essential character of the neighborhood as the size of the existing garage is in excess of what would typically be expected in a residential area, including the applicant's neighborhood.

Minneapolis City Planning Department Report  
BZZ-692

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

**Maximum square footage of an accessory structure:** Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed garage be detrimental to welfare or public safety.

**Recommendation of the City Planning Department:**

The City Planning Department recommends that the Board of Adjustment adopt the findings above and deny the variance to increase the maximum permitted floor area of an accessory structure from 676 square feet to 1,143 square feet.



**Mo & Kathy Fraenkel**

612-781-7172

TELEPHONE

Name of Applicant

**3612 Fillmore Street Northeast Mpls., MN 55418**

**Address of Applicant**

APPLICATION \_\_\_\_\_ 2002

CITY PLANNING 2002

BD. OF ADJUST \_\_\_\_\_ 2002

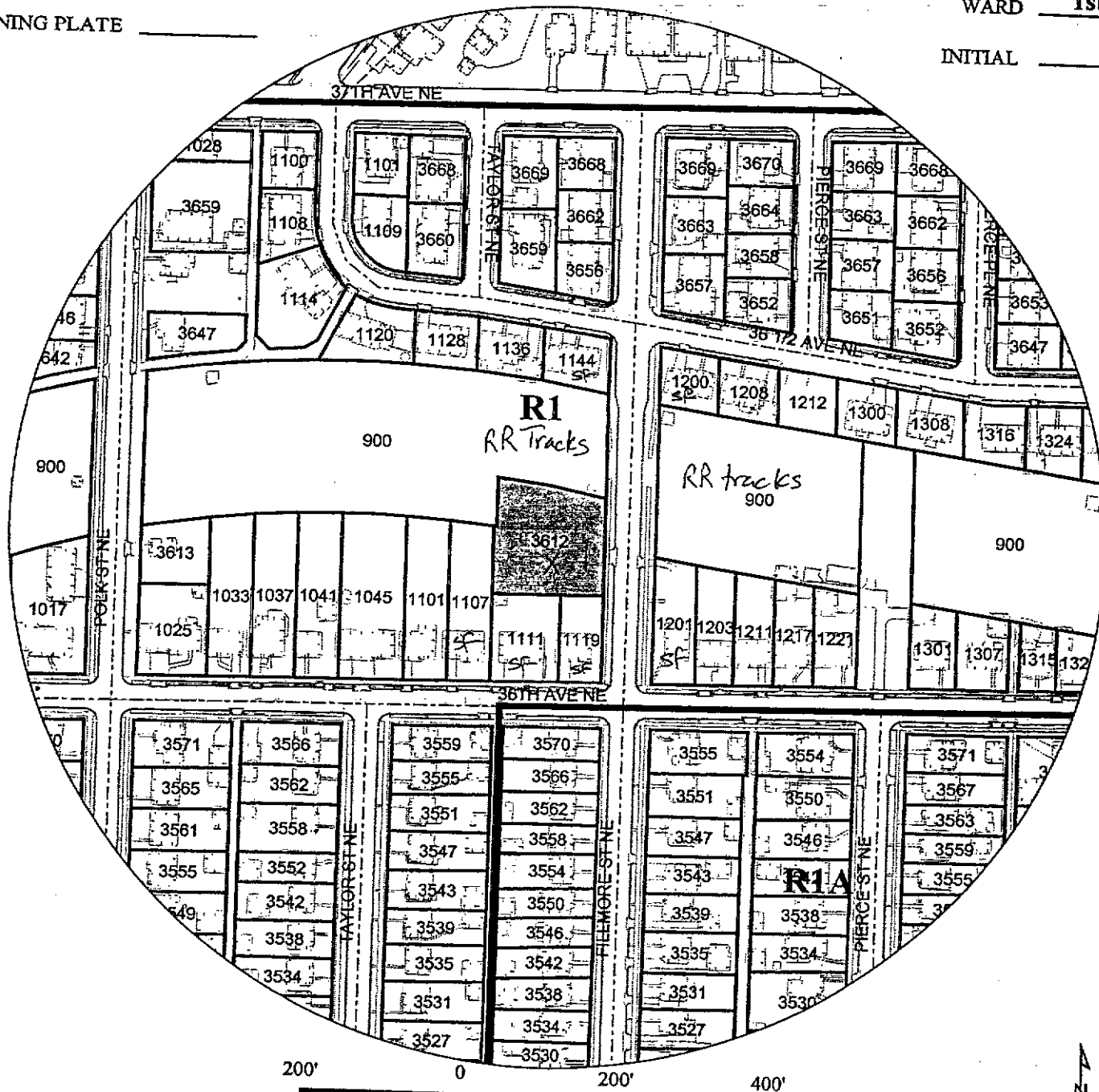
CITY COUNCIL \_\_\_\_\_ 2002

ZONING MAP CHANGE \_\_\_\_\_ 2002

ZONING PLATE \_\_\_\_\_

WARD 1st

INITIAL \_\_\_\_\_



PETITION FOR AMENDMENT		APPEAL FOR VARIATION		BOARD ACTION	
PRESENT ZONING	PROPOSED ZONING				

PROPERTY ADDRESS

FILE NUMBER

**D77 602**

From: Morris and Katherine Fraenkel 3612 Fillmore street N.E. MPLS, MN. 55418  
Home phone 612-781-7172 e-mail mo@dealersrealestate.com

We are applying for three variances.

1. 674 sq. ft additional garage square footage.
2. The set back from the sidewalk in a few areas to be 18 & 19 feet.
3. A 6 ft. Brick columns and wrought iron fence along the front yard/ sidewalk.

To whom it may concern:

We would like to add on to the existing house. The new structure will be attached.

My parents will live in the added space above the garages. *(They need their own space, to maintain their pride. My father feels if he needs someone to take care of him, he should be 6' under. This way, we can help + care for them, yet allowing him to keep his pride. This is important!)*

The following first four (1-4) are to address and show evidence of compliance with the findings of SPECIFIC APPLICATIONS FINDINGS section 525.500 also numbered 1-4 accordingly.

1. At this time, all household members are adults and each has their own vehicle. With all of the vehicles in the driveway and street, we are concerned that in a fire, police or medical emergency, they would not have quick access to our home. My father has had an ambulance out to their residence twice already. When they move in here, we want the safest home for them.
  2. Our lot is large, but not flat. The attached garages can not be added to the south of our home, due to brick retaining walls and there would not be access from the street. Needing the garages and in-law apartment to be attached, the best place is to the north side of our home. We can not place the new structure back any farther on our lot, due to the existing home's windows. Covering them would make that part of our home useless. By placing the new structure towards the back of our lot, it wouldn't be able to be attached. Caring for my parents, this would not as safe for them. Our neighbors house to the south is 19 feet to our front sidewalk and the neighbors just to the north of us, on the other side of the RR tracks are even closer.
  3. On the north side of our home, there are no neighbors. There's railroad property. On each side of our house and across the street, our neighbors face the avenues, not Fillmore Street. This new addition will not effect anyone view or shade any other yard. The character of our home should be much more pleasing to the eye.
  4. By granting this variances, it will decrease congestion on the street and be more of an enjoyment to others in the vicinity.
- \*\*please refer to attached e-mailed photos\*\***
5. An added note: with the unusually large lot we have, if our property was compared to the average city lot, our lot would still have equal or greater green/drainage space.
  6. Also, we have been planning this for some time. When the city came through our neighbor replaces sidewalks; we talked to them about putting in the second driveway. With that in mind, we paid the city extra to make the sidewalk in the "new drive" area thicker, to meet the drive way requirements. The reason we would like to put in a 6' wrought iron fence in the front and not a 4' is because our next door neighbor, their side yard is on Fillmore and joins our front yard. We feel it would be more pleasing to have the same height fence. Their fence is a wooden fence and ours would be open. At this time, we have hedges that tower 12' high. This fence would make a more open and pleasing view for anyone walking or driving by.
  7. P.S. We will be gone from June 6<sup>th</sup> to June 20<sup>th</sup> for our anniversary, thank you for your considerations.

Additional supporting documents are available for viewing in the office of the City Clerk. For more information, please contact the Committee Coordinator.